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XA-9594

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Hideyuki MATSUOKA et al.

Appln. No.: 10/009,826

Group Art Unit: 2811

Filed: March 19, 2002

Examiner: C. Nguyen

For: SEMICONDUCTOR MEMORY DEVICE AND MANUFACTURING
METHOD THEREOF

* * *

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22314-1450

Sir:

This is in response to the Office Action dated
July 15, 2003.

Initially, Applicants would point out that the Office
Action does not reflect the Preliminary Amendment filed on
December 17, 2001. Copies of the Preliminary Amendment and
the postcard receipt are attached in case the original
Preliminary Amendment was not associated with the file.
The Preliminary Amendment added new device Claims 32-35,

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which shall be considered as part of Group I for purposes of this Response (Claims 1, 8, and 30 were also amended).

Turning to the requirement for restriction, Applicants provisionally elect the invention of Group I (Claims 1-30 and 32-35) for examination in this application. However, the requirement is respectfully traversed.

The instant application is a PCT National Stage application and, as such, is governed by the Unity of Invention Standard under the PCT. See 37 C.F.R. §§ 1.499 and 1.475. However, the Office Action applies a test of distinctness consistent with U.S. restriction practice under M.P.E.P. § 806.05(f) (the product claimed can be made by another and materially different process). That test is not applicable to the present case. Rather, a proper analysis requires application of 37 C.F.R. § 1.475 and M.P.E.P. § 1893.03(d).

Because the restriction requirement fails to apply the PCT unity standard, as explained above, Applicants respectfully request that the requirement be withdrawn and that all of Claims 1-35 be examined on the merits.

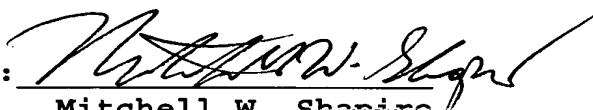
The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 any fees under 37 C.F.R. §§1.16 and 1.17 which may be required by this paper, and to credit

any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been requested separately, then such extension is hereby requested.

Respectfully submitted,

MWS:sjk

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By: 
Mitchell W. Shapiro
Reg. No. 31,568

August 14, 2003